



NELSON MULLINS RILEY & SCARBOROUGH LLP
ATTORNEYS AND COUNSELORS AT LAW

Gary M. Freedman
T: 305.373.9449 F: 305.373.9443
gary.freedman@nelsonmullins.com

2 South Biscayne Blvd., 21st Floor
Miami, FL 33131
T: 305.373.9400 F: 305.373.9443
nelsonmullins.com

April 25, 2022

BY ECF AND EMAIL

The Honorable Robert D. Drain
United States District Court
Southern District of New York
300 Quarropas Street
White Plains, NY 10601-4140

Re: *96 Wythe Acquisition, LLC v. Benefit Street Partners Realty Operating Partnership, L.P.*
(*In re 96 Wythe Acquisition LLC*), No. 21-22108, AP No. 22-07002-rdd—Request for Pre-Motion Conference on Motion for Summary Judgment

Dear Judge Drain,

This law firm, together with Kramer Levin Naftalis & Frankel, LLP, are co-counsel to Benefit Street Partners Realty Operating Partnership, L.P. (“Benefit Street”) in this chapter 11 case and related adversary proceeding. We write under the Court’s Chamber Rules and Rule 7056-1 of the Court’s Local Rules to request a pre-motion conference with respect to Benefit Street’s intent to file a motion for summary judgment in this case.

Benefit Street has filed a partial motion to dismiss [DE 4 & 5] that addresses most issues raised in Debtor’s complaint. However, because there are certain discrete factual issues raised in the complaint that are not strictly subject to the pending motion to dismiss, Benefit Street reserved adjudication of those issues for summary judgment. Accordingly, Benefit Street intends to file a motion for summary judgment addressing those factual issues, which will work in tandem with Benefit Street’s motion to dismiss, thereby addressing all outstanding causes of action and issues raised in the Debtor’s complaint.

Benefit Street respectfully requests that this conference be set as expeditiously as possible, as the motion to dismiss is set for hearing on May 25, 2022. While Benefit Street understands that the motion for summary judgment will not be heard at the May 25 hearing, because the motions complement each other, it would be beneficial to have the motion for summary judgment of record by May 25, so the Court can be fully apprised going into that hearing.

Page 2

Benefit Street is available for a pre-motion conference at the Court's convenience, and we thank the Court in advance for its consideration of this matter.

Respectfully yours,

/s/ Gary M. Freedman
Gary M. Freedman

GMF

cc: Douglas Spelfogel
Leah Eisenberg
Mark Frankel
Adam Rogoff
Brad O'Neill
Lee Hart